

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

JEREMY MICHAEL MCCARTY

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:23-CV-333-TBM-RPM

CITY OF BILOXI, MISSISSIPPI et al

DEFENDANTS

**ORDER TO SHOW CAUSE**

Plaintiff Jeremy Michael McCarty filed on November 24, 2023, a 42 U.S.C. § 1983 civil rights complaint against Defendants City of Biloxi, Aaron Smith, Andrew England, David Abbott, Tri Nguyen, Brock Newell, Brandi Van Fossen, and Chris Hines. In his complaint, McCarty alleges unlawful arrest. All Defendants have answered the complaint except for Defendant Aaron Smith. Defendant Smith is identified in the complaint as a police officer with the Biloxi Police Department who participated in the alleged unlawful arrest of McCarty. Summons issued as to Aaron Smith on March 18, 2024. Doc. [4]. Summons has not returned as to Smith, and there is no indication in the docket that Smith has been served with process.

Rule 4(m) of the Federal Rules of Civil Procedure requires service of the summons and complaint on defendants within 90 days after the filing of the complaint. If a plaintiff fails to complete service of process on a defendant within 90 days, Rule 4(m) provides that

the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Rule 4(m); *Copeland v. EMC Mortgage LLC*, No. 1:16CV159-HSO-JCG, 2016 WL 7634455, at \*5 (S.D.Miss. Dec. 21, 2016). More than 90 days have elapsed since Plaintiff filed this cause of action.

IT IS THEREFORE ORDERED AND ADJUDGED, that on or before **August 9, 2024**, Plaintiff shall show good cause, in writing, why Defendant Aaron Smith should not be dismissed from this lawsuit based on Plaintiff's failure to timely serve process. **Plaintiff is cautioned that failure to respond to the show cause order in the time allotted may result in dismissal of his claims against Defendant Aaron Smith.**

SO ORDERED AND ADJUDGED, this the 26th day of July 2024.

/s/ Robert P. Myers, Jr.  
ROBERT P. MYERS, JR.  
UNITED STATES MAGISTRATE JUDGE